



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

RICK SNYDER
GOVERNOR

BRIAN J. WHISTON
STATE SUPERINTENDENT

July 28, 2016

Meredith Miller
U.S. Department of Education
400 Maryland Avenue, SW, Room 3C106
Washington, DC 20202-2800

Docket ID: ED-2016-OESE-0032

Dear Ms. Miller:

Michigan appreciates the opportunity to provide comment and feedback on the Department of Education's (Department) Notice of Proposed Rulemaking (NPRM) on accountability and state plans under the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).

Michigan views ESSA as an important opportunity for states, including ours, to craft plans that allow us to support our districts and schools in meaningful ways, and that allow us to use assessment and accountability as vehicles for those end goals. Michigan has set a goal of being a Top 10 performing state in 10 years, and our ESSA plan will be one component of achieving that goal. We are most excited about the opportunity to ask the question, "What type of assessment and accountability system helps support our Top 10 in 10 goals, and what supports do we most need to provide schools to achieve those goals as well?"

We thank the Department for its work to honor the flexibility to states and districts provided for in the law, including the wide range of input being sought on these proposed regulations.

We offer a number of issues and recommendations for your consideration as you continue to improve the proposed regulations for ESSA:

Issue 1: State Obligations to Fund LEAs with Schools in Comprehensive Improvement (200.24)

In the proposed regulations, states are required to fund each comprehensive improvement school at \$500,000 in support of school improvement efforts. In

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Michigan, we anticipate focused supports in a significant number of schools, which will not allow us to provide adequate funding to all identified schools. Our experience with the School Improvement Grant (SIG) program suggests that many schools have struggled to spend down such significant funding.

Michigan recommends that USED strike provisions related to minimum dollar amounts for school improvement awards and allow states the flexibility to determine appropriate funding of identified schools. We believe that state-identified criteria would support customized supports, based on targeted needs.

Issue 2: Burdensome Reporting Requirements

There are many additional data requirements in the proposed ESSA regulations. These include:

- Under proposed Section 299.14(c), the SEA would be required to describe its performance management system for “each component required” under Sections 299.16 through 299.19. Each of these descriptions must include six discrete elements. Because sections 299.16 through 299.19 include some 40 different components (individual requirements), it appears that the states would have to include 240 separate descriptions of their performance management systems, as well as additional performance information required under Sections 299.17(e) and 299.19(b). None of these descriptions is required under the statute.
- While the law requires SEAs to describe how low-income and minority children in Title I schools are not served at disproportionate rates by ineffective, out-of-field, and inexperienced teachers, and to describe how they will report on and evaluate the state’s progress in this area, the proposed regulations would go well beyond the statutory language, calling for new definitions and reporting timelines that are different from those included in the proposed annual report card requirements. Another aspect of the proposed regulations that goes beyond the statutory language includes the requirement to conduct “root cause analyses” of the disproportionality. We appreciate the Department’s desire to have states continue the progress they have made under their teacher equity plans, but building so much (sometimes confusing) detail into the regulations is unnecessary and overly prescriptive.
- Under section 299.19(a)(ii), the SEA’s description of how it will support a well-rounded and supportive education for all students would be required to include the state’s strategies (and the rationales for those strategies), timelines, and funding sources for providing equitable access to rigorous courses in 17 separate subject areas, as well as in other subjects in which female students, minority students, English learners, children with disabilities, and low-income students are underrepresented. There is no statutory requirement for this description of this plan in general, and much less so for a requirement to provide four types of information on at least 17 subjects.

- Under proposed section 299.19(a)(3), the plan would be required to include a review, on an LEA-by-LEA basis, of districts' budgeting and resource allocations in four separate areas. There is no requirement to include a review in the statute.
- Under proposed Section 299.16(b)(3), the plan would include a description of the SEA's strategies for providing all students in the state the opportunity to be prepared for and to take advanced math coursework in middle school. This language is taken from the negotiated rulemaking committee agreement on assessments, but unlike the language approved by that committee, which would apply the requirement only to states that elect to exempt certain students from the regular middle-school math assessment, this language would apply to all states.

Like many states, Michigan seeks to reduce reporting burden of both our LEAs and our state education agency, and focus increased attention and resources within the system on work related to student instruction and achievement, as opposed to data collection and reporting. We also would seek to utilize national reporting standards that are built into most school information systems, to reduce the need for customized data reporting requirements mentioned in ESSA. Many of the requirements go beyond what is required in the law, and will be challenging and costly for states to implement. While Michigan is committed to transparency reporting and meaningful information for parents, we have found over the previous 15 years of NCLB that "more data" does not necessarily equate to "quality use of data" and we would like the opportunity to clearly define the metrics and information that is most useful to parents, the state education agency, and other state stakeholders in achieving our state's strategic goals, rather than completing a checklist of reporting requirements.

Issue 3: Submission of State Plans

ESSA states that the Secretary has 120 days to approve plans once submitted. There also is language related to submitting changes to the state plan, but without clarity on how long the Secretary has to approve those changes, or what constitutes a change. Based on our experience with the ESEA Flexibility process, it often was unclear what had to be submitted, and we often found ourselves waiting far longer than 120 days for approval. Michigan recommends that the process for modifying a plan, once submitted, be streamlined and steps put in place to keep turnaround time short.

Additionally, with the submission deadlines of March 6 or July 25, 2017, and a 120-day review process, most states will not have approval on their plans in adequate time to begin programming and implementing in the 2017-2018 school year.

Michigan recommends that USED either alter the windows for plan submission to January and March of 2017; commit to a 60-day review process; or move the timeline for implementation back to school year 2018-2019 to begin programming with consolidated and targeted support schools.

Issue 4: Timeline for Implementation of New Accountability Systems

Michigan joins other states in sharing several concerns with USED regarding the timeline for implementation:

- With spring testing and reasonable reporting timelines, it is not feasible to identify schools before the beginning of a school year using the most recent assessment data. For example, using assessment data from spring 2017 (which represents the 2016-2017 school year), it is unlikely for a state to run calculations and identify schools before the 2017-2018 school year begins. Michigan projects releasing accountability designations in mid-to-late fall. Our preferred timeline would be that states identify schools in the fall of a given year; schools and districts have the remainder of that year for planning; and then full implementation of supports occurs in the following school year.
- As outlined in Issue 3, in order to identify schools for the 2017-2018 school year, Michigan would have to implement a new accountability system without having approval from USED, given plan submission deadlines and review timelines.

Issue 5: Performance Levels for Indicators and Summative Ratings

Michigan will be transitioning to an A-F grading system for its districts and schools. That being said, we support the concern raised by other states that caution against the regulations requiring a published single rating, as Michigan believes that the choice of the indicators and summative ratings and how those are characterized should be determined by the state, in consultation with stakeholders. We recommend that the final regulations have more flexible language that allows a variety of state systems. The final regulation should be clear that it is at the discretion of each state to use dashboards to display data or a single rating.

Additionally, in 200.14(a)(2), the regulations state that the same measures must be used within each indicator for all schools. Michigan opposes this requirement, due to the fact that it creates a "one-size-fits-all" approach that penalizes students in alternative programs. Michigan has completed substantial work on an accountability system for alternative programs; this regulation, as currently written, may jeopardize that work.

Issue 6: High School Graduation Rate

Michigan requests that states be allowed to use both the four-year adjusted cohort graduation rate and an extended-year adjusted cohort graduation rate in the identification of schools for comprehensive support and improvement. Additionally, Michigan cautions against changes to the graduation rate, and in particular, the inclusion of significantly cognitively impaired students who graduate with an alternate diploma (based on IEP goals) in the numerator. We recommend that the language regarding an IEP-based diploma be removed. Rather than change the actual rate calculation, Michigan would prefer to have more flexibility in determining how we use the graduation rate in accountability calculations, and how we may use other factors such as dropout rates alongside a traditional graduation rate calculation. This increases transparency and precision while at the same time giving schools and districts appropriate credit for helping students complete school using a variety of pathways.

Issue 7: Issues Related to English Learners (200.13)

Ambitious, long-term goals for English learners to achieve English language proficiency.

Michigan believes the timeline should be based on evidence, as research shows that English learners need at least seven years to reach proficiency in the English language (Umansky & Reardon, 2014; Collier & Thomas, 2001). Therefore, based on these evidence-based summaries, it is recommended that states calculate accountability determinations taking into consideration the most recent English proficiency levels of each EL to create a trajectory for expected annual progress. It is recommended that we are allowed to set state-determined timelines for reaching proficiency, up to seven years starting from the initial enrollment in Michigan schools and adjusted downward for students closer to achieving English proficiency based on their most recent English proficiency levels. Additional factors to be considered are years in the United States, disruption of schooling, and the quality of the English Learner program.

Inclusion in Assessment and Accountability

While the regulations do include new flexibilities in terms of English Learners and their inclusion in assessment and accountability, Michigan does not believe that the flexibilities are sufficient to capture the specific needs of English learners. In particular, we would advocate for more flexibility when the students are required to take the state assessment (not the English language proficiency assessment); it is impractical and unfair to assess students who are newly-arrived in the country and/or who have had sufficient disrupted schooling time. We also would advocate for additional flexibility on when and how the students be included in accountability determinations, although we appreciate the three-year accountability option made available in the current law and plan to utilize that option.

Inclusion of Formerly Limited English Proficient

Michigan disagrees with including Formerly Limited English Proficient (FLEP) students in calculations, as it is not an accurate representation of the population. Our preferred option would be to do transparency reporting on this topic, versus adding it into the school accountability.

Issue 8: Standardizing criteria for including students with disabilities, English learners, homeless students, and students who are in foster care in their corresponding subgroups within the adjusted cohort graduation rate.

Michigan believes there is benefit to having standardized criteria for the inclusion of these groups of students in the graduation rate calculation, particularly since it requires setting “rules” regarding which subgroup the student counts in when their subgroup status can change. We would suggest asking states to provide the business rules by which they currently make these decisions in their cohort graduation rate calculations, and that USED use the best practices from all states to create coherent guidance.

Issue 9: Evidence-based interventions

In the proposed regulations under the section LEA Development of Comprehensive Support and Improvement Plan, there is a section that describes 11 interventions that might be included in the LEA plan. This section then goes on to say that the interventions need to be evidence-based. There are no citations given that indicate the listed interventions are evidence-based. This could very likely be confusing to the field as well as states who are responsible for compiling a list of evidence-based practices.

Issue 10: Additional Indicator of School Success

Michigan seeks clarity regarding the additional indicator of school success.

- For the additional indicator in the accountability system, it is required that each measure included in this additional indicator can be disaggregated for each subgroup of students. In order to do this for measures such as educator engagement and school climate and safety, does this require linking back specifically to each student and his/her demographics, or can the school-level demographics be used. For example, if the state selects an indicator of educator engagement or quality, does it require that students be rostered to each teacher so that the demographics for the specific students that teacher provides instruction to are reflected with that teacher’s engagement or quality measure? As another example, the proposed regulations provide as an example (e.g., for “school climate and safety”) the use of a robust, valid student survey that measures multiple domains (e.g., student engagement,

safety, and school environment). In order to disaggregate this measure/data by subgroups of students as required in the legislation, would it require administering the survey to all students, and the student's specific demographics linked to that survey (e.g., pre-ID for the student with that data linked to the student's responses to the survey)?

- If a survey is done for one of the measures of the additional indicator, must all students be surveyed (and perhaps participation rate calculated as well)?
- For the additional indicator(s) in the accountability system as the 5th indicator, should the data be reflective of all students (like participation rate is) or only full academic year (FAY) students?
- Must all grade levels within a grade range (e.g., K-5) be included for a measure, or may the SEA choose to only include some grades within a range, as long as all public schools in the state that have one or more of the grade levels with that grade range will have data for this measure? (e.g., grades K, 3, and 5 instead of all grades K-5)

Issue 11: Federal formulas for funds

In order to meet the spirit of the Every Student Succeeds Act law that privileges the ability of states to craft plans that help support key strategic goals, Michigan recommends that USED consider requests from states for changes in the federal formulas for the funds that states flow through, either in the formula itself and/or the data set(s) used in those formulas, as long as the state can identify that the requested change serves the state's population in a more equitable manner than the existing formula and/or data set.

Issue 12: Achievement Calculations

Proposed 200.33. Michigan believes this requirement will increase complexity, decrease public understanding, while providing little additional value. This also is unnecessary if low participation consequences are implemented properly. The law contradicts itself; we believe the spirit of the law is based on enrollment.

Thank you for your considerations. Please feel free to contact the Michigan Department of Education if you have any questions regarding this input.

Respectfully,



Brian J. Whiston
State Superintendent